IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 113 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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AGRICULTURE PRODUCE MARKET COMMITTEE

Versus

AMBER CONSTRUCTION COMPANY

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Appearance:

MR JAYANT PATEL for Petitioner

MR SURESH M SHAH for the Respondent.

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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 12/01/2001

ORAL JUDGEMENT

This Revision Application is filed by the Agriculture Produce Market Committee - Gondal, challenging the order passed by the learned Civil Judge (S.D.), Gondal, below Application Exhibit 21 in Special Civil Suit No.134 of 1996.

The respondent herein is the original plaintiff of the aforesaid suit. The aforesaid suit was filed by the plaintiff for a declaration that he is entitled to continue with the contract work and that his contract is still in operation and that the defendant has no right to get the aforesaid work done through other Contractor and he has also prayed for an injunction that the work in question should not be handed over to other person. In the aforesaid suit, the plaintiff submitted an application for interim injunction at Exhibit 5. During the pendency of the aforesaid application Exhibit 5, the plaintiff gave another Application Exhibit 21 on the ground that since the defendant had filed a caveat, their Advocate at the time of the first hearing of Exhibit 5 orally agreed by way of oral undertaking that they will not change the status quo of the property and that, in spite of that, they have decided to give advertisement for allotment of certain shops. It was also prayed that till Exhibit 5 is decided, the defendant may be restrained from allotting the shops to any one.

The Court passed an order below the said Application that the possession may not be handed over to any one. That order is challenged by the original defendant in the present Revision Application.

This Court, while admitting the matter, also granted interim relief to the present petitioner, by which the impugned order was stayed. Mr.Patel for the petitioner states that thereafter, there was a subsequent event in the sense that in other proceedings pursuant to the order passed by the Honourable Supreme Court in connection with the allotment of shops by the traders, ultimately, possession has also been handed over and the Agricultural Produce Market is already functioning in the Gondal Town since long and, therefore, the controversy in question has become academic and nothing further is required to be adjudicated between the parties in the present revision. Since the question has become academic, now it is not necessary, therefore, to decide whether the trial court was right or wrong at the time of passing the order below Exhibit 21. This Revision Application is, therefore, not entertained as having become infructuous.

It is, however, clarified that if any rights of the present plaintiff is still surviving, the same can be agitated in the pending suit and the suit may be decided in accordance with law after considering the rival submissions of the parties.

So far as the present revision application is concerned, since it is not required to be adjudicated as the shops are already allotted and as the Market Yard is functioning, it is not necessary now to decide the aforesaid question which is required to be decided on the basis of Application Exhibit 21 in the suit.

It is also clarified that this Court has not adjudicated upon any of the rights of the petitioner or the respondent and the same is required to be adjudicated only in the pending suit by the learned trial Judge. This Revision Applicaiton is mainly disposed of on the ground that it is not necessary to pronounce upon on the interim order of the Court below since the market is already functioning.

This Revision Application is disposed of as having become infructuous. Rule is discharged. Interim relief shall stand vacated. No costs.

12th January, 2001 ( P.B. Majmudar, J. )

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(apj)